



subsequently, with one TLAB decision dated August 11, 2017 and the other dated September 20, 2017. The first one set the hearing date of November 13, 2017, and the second authorized a late filing of witness materials. At the hearing on November 13, 2017, Ms. Itan for the City moved to further adjourn the hearing of the appeal, based on a Notice of Motion by the applicant for permission to file revised plans dated November 9, 2017.

## **THE ISSUE**

Due to revisions to the site plan, sent only on November 9 to the TLAB, the City believes that both a revised Arborist Report and a new Tree Protection Plan are needed. These would facilitate discussions among the parties to determine whether the revised materials resolve the serious concerns expressed by the City's Forestry Department on this appeal.

## **ANALYSIS, FINDINGS, REASONS**

I note that Mr. Ketcheson for the applicant filed the Motion for additional filings only on November 9, and not as required by the TLAB Rules of Practice, Rule 17.6, at least 15 days before the date the Motion is to be heard. In the result, the Motion was not properly perfected. It was not accompanied by an Affidavit in Form 10 as Rule 17.5 (e) requires, nor was it correctly served. Thus it was not posted on the TLAB's file for the hearing on November 13. This Member did not see it, or the City's response, if any, until mention was made of it at the hearing. This places the Member hearing the matter and the interests of the parties in an untenable position. This Motion did not, perhaps, concern a fundamental or critical issue this time. In other instances, failure to properly file could have more serious consequences. The TLAB's Rules and procedures for creating a digital file for each matter must be respected in the interests of everyone engaged in an appeal.

On the merits of the City's motion, all of the parties and participants agreed that a further adjournment would assist in clarifying if not resolving the outstanding issues. Upon canvassing the parties as to their availability for a hearing, it was determined that the earliest date when all parties and participants could attend for a hearing is Monday, April 16, 2018, and Tuesday April 17, if needed. The TLAB staff have confirmed that these dates are available.

## **DECISION AND ORDER**

The hearing of this appeal is adjourned, to be heard on Monday, April 16 and Tuesday, April 17, 2018, as required, at 9:00 A.M., Suite 211 (2<sup>nd</sup> Floor) - 40 Orchard View Boulevard, Toronto, ON.

The hearing room will be announced in a new Notice of Hearing.

**Decision of Toronto Local Appeal Body Panel Member: G. Burton**  
**TLAB Case File Number: 17 165404 S53 06 TLAB**

The further revised exchange dates and related matters as set out in the new Notice of Hearing will govern.

The Parties are instructed to advise the TLAB at the earliest opportunity upon any resolution of the matters, all in accordance with Rule 19.

X 

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G. Burton

Panel Chair, Toronto Local Appeal Body